

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
SOUTHERN DIVISION

|                                       |   |          |
|---------------------------------------|---|----------|
| GERRY ALLEN HODGE,                    | ) |          |
| By and through His Legal Guardian,    | ) |          |
| LINDA FARROW,                         | ) |          |
|                                       | ) |          |
| Plaintiff,                            | ) |          |
|                                       | ) |          |
| vs.                                   | ) | Case No. |
|                                       | ) |          |
| WALGREEN CO., d/b/a Walgreens #07901, | ) |          |
|                                       | ) |          |
| Defendant.                            | ) |          |

**NOTICE OF REMOVAL**

Defendant Walgreen Co. (“Walgreen”), by and through the undersigned counsel, pursuant to 28 U.S.C. 1441 and 1446 files this Notice of Removal to the United States District Court for the Western District of Missouri, and in support of said removal states as follows:

1. This is a civil action that was originally filed on or about November 22, 2019 in the Circuit Court of Greene County, Missouri in which the plaintiff is Gerry Allen Hodge by and through his legal guardian, Linda Farrow (“Plaintiff”) and the defendant is Walgreen Co. In that action, Plaintiff seeks to recover damages allegedly sustained as a result of Plaintiff tripping and falling on textured bricks. Exhibit A, Petition for Damages.

2. Plaintiff’s Petition for Damages did not state the amount in controversy, other than it was in excess of \$25,000, and prayed for “a sum which is fair and reasonable.” Exhibit A.

3. Plaintiff is a resident of Greene County, Missouri. Exhibit A at ¶ 1.

4. At the time of the commencement of said action and ever since, Walgreen is an Illinois Corporation with its principal place of business in the state of Illinois, not having its chief

and principal office and place of business in the State of Missouri, and is not a citizen or resident of the State of Missouri.

5. As between Plaintiff and Walgreen, the controversy in this action is wholly between citizens of different States.

6. The matter in controversy, exclusive of interest and costs, exceeds the sum or value of Seventy-Five Thousand Dollars (\$75,000.00).

7. The Eighth Circuit has held that the “requirement is satisfied when a fact finder could legally conclude, from the pleadings and the proof adduced to the court before trial, that the damages that the plaintiff suffered are greater than \$75,000.” Capital Indemnity Corp. v. 1405 Assoc., Inc., 340 F.3d 547, 549 (8<sup>th</sup> Cir. 2003).

8. The amount in controversy in this action exceeds the sum of \$75,000 in that Plaintiff claims and has demanded \$500,000 for his claimed damages.

9. This Notice of Removal is timely because Walgreen was served a copy of Plaintiff’s Petition for Damages and the Summons on December 24, 2019 and this Notice of Removal is filed within 30 days of service.

10. Therefore, this Court has original jurisdiction pursuant to 28 U.S.C. §1332 and this matter may be removed to this Court pursuant to 28 U.S.C. §1441.

11. Immediately after the filing of this Notice of Removal, Walgreen gave written notice thereof to the attorney for Plaintiff and to the Clerk of the Circuit Court of Greene County, Missouri and has provided both with copies of this Notice of Removal.

12. All process, pleadings, and Orders that were filed in the state court action are attached to this Notice of Removal as Exhibit B.

WHEREFORE, Defendant Walgreen Co. requests that the above-referenced state court action be removed from the Circuit Court of Greene County, Missouri, to this Court, and that the Court accept jurisdiction of the case.

Respectfully submitted,

/s/ Kristie S. Crawford

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ATTORNEYS FOR DEFENDANT

#### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing has been filed electronically on the 21<sup>st</sup> day of January, 2020. The undersigned further certifies that a true and accurate copy of the foregoing was served on the following parties via electronic mail:

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/s/ Kristie S. Crawford

Kristie S. Crawford

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